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RS-04-074

May 20, 2004

**Proposed Interim Enforcement Policy for
Pilot Program on the Use of Alternative
Dispute Resolution in the Enforcement
Program Request for Comments
(69FR21166)**

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DOCKETED
USNRC

Ms. Annette Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
ATTN: Rulemakings and Adjudications Staff
Mail Stop T-6 D59
Washington, DC 20555-0001

May 20, 2004 (8:24AM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

SUBJECT: Proposed Interim Enforcement Policy for Pilot Program on the Use of
Alternative Dispute Resolution in the Enforcement Program
(69 Fed. Reg. 21166; April 20, 2004)

Exelon Generation Company, LLC and AmerGen Energy Company, LLC, appreciate the opportunity to provide comments in response to the above cited Federal Register notice announcing the implementation of a pilot program on the use of Alternative Dispute Resolution (ADR) in cases involving discrimination or other wrongdoing. We are actively involved with the Nuclear Energy Institute (NEI) on this subject and endorse the industry comments on this subject and support of this pilot program.

Overall, we consider that instituting an effective ADR program as a component of the NRC's enforcement process should yield several benefits, including:

- providing a less adversarial process for resolving the issues in dispute;
- promoting greater communication and, in turn, greater cooperation among the parties, ideally leading to a quicker, more mutually satisfying end result;
- helping to minimize the time to obtain a resolution of potentially very contentious issues;
- minimizing the need for a large commitment of licensee and staff resources; and,
- leading to potentially more effective corrective action if such action is warranted.

We do offer one additional comment for you to reconsider and this involves the issuance of a press release when a settlement is reached through ADR after the conclusion of the OI investigation. Given that a confirmatory order itself would be made public, the issuance of a press release would be unnecessary.

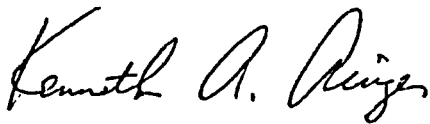
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In conclusion, despite the one comment previously described we consider that the opportunity for ADR has the potential to avoid some of the problems that licensees and other stakeholders have identified over the past five years with respect to the NRC's handling of discrimination and wrongdoing cases. We appreciate the NRC's initiation of an ADR process and will provide feedback when the NRC considers establishing the program as a permanent part of the enforcement process.

If you have questions about the industry's views or would like to discuss them further, please contact me at (630)657-2800.

Respectfully,

A handwritten signature in black ink, reading "Kenneth A. Ainger". The signature is written in a cursive style with a large, stylized "K" and "A".

Kenneth A. Ainger
Manager – Licensing